

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 01-MSRC-002**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

**CHARLES HENSLEY, LARRY ISON,
LAWRENCE VANOVER, ET AL**

RESPONDENTS

**FINAL ORDER REGARDING
RESPONDENT CHARLES HENSLEY**

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Charles Hensley, and the members of the Commission having reviewed the Settlement Agreement filed on January 8, 2003 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Charles Hensley's Underground Mine Foreman's Certificate, # A-**-**, issued by the Commonwealth of Kentucky, shall be revoked for a period of two (2) years, effective January 8, 2003;
3. Pursuant to the terms of the Settlement Agreement, the Respondent, Charles Hensley, has agreed that if he wants to become a certified underground mine foreman in the Commonwealth of Kentucky after the expiration of said revocation period, he must re-take and pass the Kentucky

mine foreman's examination, prior to re-applying to the Kentucky Mining Board for a foreman's certificate;

4. The Respondent, Charles Hensley, shall turn over his mine foreman's certificate to a representative of the KDMM on or before January 9, 2003, at a time and place to be arranged by the parties;

5. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

6. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Hensley, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13); and

7. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Charles Hensley, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of February 2003.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER REGARDING RESPONDENT CHARLES HENSLEY was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this _____ day of February 2003:

HON. SUSAN C. LAWSON
LAWSON & LAWSON, P.S.C.
WHEELER BUILDING, STE. 301
P.O. BOX 837
HARLAN KY 40831
Attorney for Charles Hensley

And by regular mail, postage pre-paid to:

HON. BILLY R. SHELTON
JONES, WALTERS, TURNER & SHELTON, PLLC
151 N. EAGLE CREEK DRIVE
ONE FOUNTAIN PLAZA, STE. 101
LEXINGTON KY 40509
Attorney for Larry Ison

HON. PAUL F. FAURI
232 ST. CLAIR STREET
P.O. BOX 1304
FRANKFORT KY 40602
Attorney for Lawrence Vanover

HON. STEPHEN A. SANDERS
APPALACHIAN CITIZENS LAW CENTER, INC.
207 W. COURT STREET, STE. 202
PRESTONSBURG KY 41653
Attorney for Thelma Campbell

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS)	
)	
Complainant)	
)	
v.)	Administrative Action No. 01-MSRC-002
)	
)	
CHARLES HENSLEY, LARRY ISON & LAWRENCE VANOVER, ET AL.)	
)	
Respondents)	
)	

SETTLEMENT AGREEMENT BETWEEN KDMM & CHARLES HENSLEY

Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”), and Respondent Charles Hensley (“Hensley”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Hensley hereby agrees to the **REVOCATION OF HIS UNDERGROUND MINE**

FOREMAN’S CERTIFICATE

(#A--**) FOR A PERIOD OF TWO (2) YEARS**, effective upon the signing of this Settlement Agreement by both parties. Hensley shall turn over his mine foreman’s certificate to a representative of the KDMM on or before January 9, 2003, at a place and time to be arranged by the parties. Hensley further agrees that if he wants to become a certified underground mine foreman in the

Commonwealth of Kentucky after the expiration of said revocation period, he will have to re-take and pass the Kentucky mine foreman's examination prior to re-applying to the Kentucky Mining Board for a foreman's certificate.

Hensley also agrees that this Settlement Agreement, and any final order issued herein by the Mine Safety Review Commission ("the Commission"), will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13). However, for the purpose of liability in any proceeding other than this action before the Commission, Hensley denies any violation of the law.

The parties state that they have carefully read and considered this Settlement Agreement prior to signing the Agreement, and that they understand and agree to its terms and provisions. KDMM and Hensley acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

CHARLES HENSLEY

Benham, Kentucky *****

DATE

FRANK X. DELZER
Commissioner
Kentucky Dept. of Mines &
Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this _____ day of January, 2003, to Susan C. Lawson, Attorney-at-Law, P.O. Box 837, Harlan, Kentucky 40831; Billy R. Shelton, Attorney-at-Law, JONES, WALTERS, TURNER & SHELTON, 151 N. Eagle Creek Drive, One Fountain Plaza, Suite 310, Lexington, Kentucky 40509; Paul F. Fauri, Attorney-at-Law, P.O. Box 1304, Frankfort, Kentucky 40602; and Stephen A. Sanders, Attorney-at-Law, APPALACHIAN CITIZENS LAW CENTER, 207 West Court Street, Suite 202, Prestonsburg, Kentucky 41653.

TONY OPPEGARD
General Counsel

KENTUCKY DEPT. OF MINES & MINERALS